

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

	)	CIVIL ACTION
	)	No. 96-10804-DPW
	)	
LIBERTY MUTUAL INSURANCE	)	1:04-CV-10969-DPW
COMPANY,	)	(Sutton Brook Site)
Plaintiff,	)	
	)	
v.	)	
	)	
THE BLACK & DECKER	)	
CORPORATION, BLACK & DECKER,	)	
INC., BLACK & DECKER (U.S.)	)	
INC., EMHART CORPORATION,	)	
and EMHART, INC.,	)	
Defendants.	)	
	)	

**ASSENTED-TO MOTION OF LIBERTY MUTUAL INSURANCE  
COMPANY TO FILE UNDER SEAL DOCUMENTS CONCERNING LIBERTY  
MUTUAL INSURANCE COMPANY'S OPPOSITION TO BLACK &  
DECKER'S MOTION FOR SUMMARY JUDGMENT REGARDING THE  
SUTTON BROOK SITE**

Pursuant to Local Rule 7.2, plaintiff, Liberty Mutual Insurance Company ("Liberty Mutual"), hereby moves for leave to file under seal Liberty Mutual Insurance Company's Opposition to Black & Decker's Motion for Summary Judgment Regarding the Sutton Brook Site ("Liberty Mutual's Opposition"), Affidavit of Ralph T. Lepore, III, Esq. In Support of Liberty Mutual Insurance Company's Opposition to Black & Decker's Motion for Summary Judgment Regarding the Sutton Brook Site ("Affidavit"), and Liberty Mutual Insurance Company's Response to Black & Decker Statement of Material Facts as to Which

There is No Genuine Dispute Regarding the Sutton Brook Site ("Liberty Mutual's Response"), because said documents contain references to other documents which were produced by defendants, The Black & Decker Corporation, et al. ("Black & Decker"), on a confidential basis pursuant to the Confidentiality Order in this lawsuit.

As grounds for this Motion, Liberty Mutual states as follows:

1. In Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response, Liberty Mutual makes reference to, and appends copies as exhibits of certain documents which were produced on a confidential basis by Black & Decker pursuant to the Confidentiality Order in this case. The parties have agreed to maintain the confidentiality of such documents in any filings with the Court.
2. Accordingly, Liberty Mutual files this Motion to protect the allegedly confidential nature of the Black & Decker documents which, otherwise, would be available for inspection and copying by the general public.
3. Liberty Mutual files this Motion in good faith, and not for the purpose of delay. Black & Decker will not be prejudiced in any manner by Liberty Mutual's request, which is intended to protect Black & Decker's asserted confidentiality interests.
4. Accordingly, pursuant to Local Rule 7.2, Liberty Mutual requests that the Court enter an Order authorizing the sealing of Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response Regarding Black & Decker's Motion for Summary Judgment Regarding the Sutton Brook Site.

5. Liberty Mutual requests that the Court maintain Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response under seal until this action is closed. At that time, Liberty Mutual requests that Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response be returned to the undersigned counsel.

6. Black & Decker assents to this Motion to file Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response under seal.

WHEREFORE, Liberty Mutual Insurance Company respectfully requests that the Court grant this motion and require that Liberty Mutual's Opposition, Affidavit and Liberty Mutual's Response Regarding Black & Decker's Motion for Summary Judgment be kept under seal, and for such other and further relief as this Court deems just and proper.

**LIBERTY MUTUAL  
INSURANCE COMPANY**

By its attorneys,

/s/ Ralph T. Lepore, III  
Ralph T. Lepore, III (BBO #294420)  
Janice Kelley Rowan (BBO #265520)  
HOLLAND & KNIGHT LLP  
10 St. James Avenue  
Boston, MA 02116  
(617) 523-2700

Dated: December 22, 2004

**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that pursuant to Local Rule 7.1, I spoke with Richard L. Binder, counsel for Black & Decker, on December 22, 2004, and he agreed that this motion could be filed with the assent of the defendants.

/s/ Ralph T. Lepore, III

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of December, 2004, I caused a copy of the foregoing Assented to Motion to be served by hand upon Jack R. Pirozzolo, Esq., counsel to defendants, at Willcox, Pirozzolo & McCarthy, P.C., 50 Federal Street, Boston, MA 02110.

/s/ James M. Tierney

2483481\_v1